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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,290	08/27/2003	Bryan Chambers	CULZ 2 00006	5486

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EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/649,290	CHAMBERS, BRYAN	
	Examiner	Art Unit	
	Raymond W. Addie	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/15/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Cockman # 4,923,165.

Cockman discloses a ground anchor assembly (A) for a guide post (18); comprising:

A 1st and 2nd part, the 1st part (D) having a head portion (16, 50) adapted to be pounded into the ground; as well as a tail portion (10) being insert able into the ground.

A pair of folded over tab members (24) defining a slot (30), upon the top surface of said head portion (16).

The 2nd part (26, 28), having an "L" shape and comprising a 1st wall section (26b, 28b) to which a road post (18) can be attached; and a 2nd wall section which comprises a tongue member, capable of being inserted into and retained within said slot (30). See Figs. 1, 2; col. 2.

Wherein said 1st part (D) further comprises a tail portion (14) having a substantially V-shaped configuration and comprises a 1st side wall and a 2nd side wall. See Fig. 2.

Wherein the 2nd part (26a, 28a) can be quickly detached and reattached to the 1st part at (24, 30), respectively, with a firm blow. See Col. 2, Ins. 59-68.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cockman # 4,923,165.

Cockman discloses essentially all that is claimed, with respect to claim 2 above, to include a head portion (D), having a plurality of plates (22, 50) that can be at least semi-circular; but does not explicitly recite the length of the tail portion. However, Cockman clearly disclose the plate (22) can be welded to the shaft (10) approximately 2-3" below element (16). Cockman further illustrates elements (16, 22) and the tail portion (14) in Fig. 2. Further from the illustration, it appears as though the tail portion (14) could be in the range of 4-20" long, the length being dependent upon the intended use of the ground anchor and the type of soil being anchored into. Therefore, it would have been obvious, if not inherent that Cockman clearly contemplates the use of a ground anchor having a tail portion, insert able into the ground in a range of 4-20"; in order to secure a guide post in the ground. See Fig. 2; Col. 3.

3. Claims 6, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cockman # 4,923,165 in view of Beard # 4,645,168.

Cockman discloses essentially all that is claimed, with respect to claims 5, 7 above, to include the use of an L-shaped connection member used to connect a guide post to an ground anchor, but does not disclose making the connection member integral with the guide post nor providing the connection member with a curved front edge.

However, Beard teaches reinforced support structures for upright highway markers are advantageously provided with a connection member (18, 58, 100, 202), that can be made integral with the guide post (202) and provided with a curved front edge, to facilitate connecting the guide post (202) to a base plate (200). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the ground anchor assembly of Cockman, with an integrally formed connection member, having a curved front edge, as taught by Beard, in order to facilitate connecting the guide post to the base.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cockman # 4,923,165 in view of Beard # 4,645,168 as applied to claim 8 above, and further in view of Lloyd et al. # 5,129,613.

Cockman in view of Beard discloses essentially all that is claimed, except for the use of "locking fingers" to engage the 1st and 2nd parts together.

However, Lloyd et al., teaches it is known to attach a receiving base (10) having a plurality of locking fingers (22), and a pair of folded over sections (16) to a solid contact material (26), insertable within a slot formed by the folded over sections (16), the locking fingers and folded over sections permitting insertion, removal and replacement of the contact material (26). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the anchor assembly of Cockman in view of Beard, with locking fingers, as taught by Lloyd et al., in order to facilitate reception of the 2nd part, within the 1st part, as reasonably suggested by Cockman. See Lloyd et al. Cols. 1-2.

Response to Arguments

6. Applicant's arguments filed 3/15/06 have been fully considered but they are not persuasive. Applicant argues against the 35 USC 102(b) rejection of claims 1, 2, 5, 7 by suggesting "the ground anchor assembly of Cockman is adapted to be screwed into the ground...If the Cockman assembly were to be pounded into the ground, the auger blades would not function properly and would likely be...broken...There is no mention of anchor which are pounded or otherwise forcibly driven into the ground".

However, the Examiner does not concur.

Applicant's suggestion the claims require the anchor to be driven by pounding into the ground is not consistent with the actual language of claims 1 and 7.

Specifically, claim 1 recites "the first part adapted to be pounded into the ground".

Which does not require the anchor to be pounded, only adapted to be pounded into the ground. Further, the actual claim language does not limit, preclude or distinguish how the adaptation is to be made or in what form of adaptation is necessary for pounding.

Hence, since Cockman clearly illustrates a flat head section (D) that extends peripherally beyond end bracket (16); the anchor is adapted to be pounded on either the head section (D) or on top of end bracket (16), by virtue of each element's flat, horizontal upper surface. Which is all that is needed to be "adapted to be pounded into the ground".

Further, Applicant's suggestion that pounding the Cockman anchor into the ground, would cause damage to said anchor, is not persuasive because, the anchor could easily be driven into soft, or water saturated soils, such as river banks, sea beds etc. without being damaged. Hence, Applicant's appears as though Applicant's argument is based on conjecture and not any actual disclosure by the prior art. Therefore, the rejection is seen as proper and is maintained.

Applicant then argues "Claims 1 and 7 recite a second part that can be quickly attached and detached from the first part by a hard blow on the second part".

However, Applicant's argument is not consistent with the actual claim language. As amended, the parts can be "detached and reattached to the first part with a firm blow". Since the claim does not further define the scope of a "firm blow"; or with what, the "firm blow" is being created by, it would be improper to suggest this would cause a

"hard blow" since neither firm blow is defined and the instrument causing the firm blow is not defined. Clearly a firm blow from a ruler would not be considered equal to a firm blow from a sledge hammer.

Hence, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

To this affect, Cockman clearly illustrates and discloses the L shaped brackets (26, 28) are capable of sliding in groove (30) of bracket (24), and could be engaged or disengaged with said bracket with a firm blow of a user's hand.

Therefore, the argument is not persuasive and the rejection is maintained.

Applicant then argues against the 35 USC 103(a) rejection of claims 6 and 8 by suggesting "Beard pertains to 'markers and, more particularly to the base plate on which upright markers are mounted for placement along the roadside. Thus, Beard relies on a mounting base attachable to the road surface and also includes an upright member (12) or pedestal (202), mounted with hardware to the base".

However, the Examiner does not concur.

Applicant's arguments clearly ignore and disregard the actual rejection as put forth in the last Office Action, and repeated above. The fact secondary references include additional structure not claimed by Applicant is irrelevant to the fact the combined references clearly show the obviousness of the claimed invention.

Specifically, Claim 6 requires the tongue of the L-shaped bracket to have a curved front edge. Whether or not the device can be adhered to a road surface does not appear to be relevant to the claimed limitation cited in claim 6.

To that affect, Cockman discloses the L-shaped bracket detachable and reattachable to the 1st part, by a firm blow of the hand, does not disclose providing the L-shaped bracket with a curved front face. However, Beard teaches reinforced support structures for upright highway markers are advantageously provided with a connection member (18, 58, 100, 202), that can be made integral with the guide post (202) and provided with a curved front edge, to facilitate connecting the guide post (202) to a base plate (200). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the ground anchor assembly of Cockman, with an integrally formed connection member, having a curved front edge, as taught by Beard, in order to facilitate connecting the guide post to the base.

Therefore, the argument is not persuasive and the rejection is maintained.

Applicant argues against the rejection of claim 9 by suggesting "Beard teaches away from Cockman...combining Cockman, Beard and Lloyd et al., would not result in a first part pounded into the ground".

However, the Examiner does not concur.

None of the claims require the first part to be pounded into the ground. No methods nor method steps have been claimed.

Further the claims only require the device to be "adapted to be pounded into the ground"; which Cockman clearly illustrates the 1st part (16/D) are provided with flat top surfaces, capable by being pounded upon by a driving tool, such as a hand, hammer or sledge hammer.

Therefore, the arguments are not persuasive and the rejection is maintained.

Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 571 272-6986. The examiner can normally be reached on 6AM-2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raymond Addie
Primary Examiner
Group 3600

04/20/06